

Post 4/3/70

'7' Judge Relents on Final Witness

By Tony Fuller

CHICAGO, Feb. 2 (UPI)—U.S. District Court Judge Julius J. Hoffman rested the defense's case himself in the riot conspiracy trial today when the chief defense attorney accused the judge of presiding at a "legal lynching" and announced, "We're never going to rest."

The judge relented later and said the defense can present one last witness—the Rev. Ralph Abernathy, head of the Southern Christian Leadership Conference—if it has him in court at 10 a.m. Tuesday.

Chief defense attorney William M. Kunstler and Hoffman traded angry blasts at the trial of seven antiwar leaders.

Kunstler told the judge he had "violated every principle of justice" and challenged him to "put me in jail."

The judge accused the defense of "defying the court's orders and being deliberately and openly in contempt of the court" by bringing Mr. Abernathy into the courtroom after Hoffman had declared the defense's case rested.

"Never as a lawyer or a judge have I heard a lawyer make remarks such as you have in this court," Hoffman told Kunstler. And in a lengthy scolding later, the judge said:

"I have never seen the things before that I have seen in this courtroom."

"You've never seen us be-



United Press International

The Rev. Ralph Abernathy, center of a controversy at the Chicago riot-conspiracy trial, talks to newsmen. With him is chief defense counsel William Kunstler.

fore, your honor," Kunstler replied.

Turmoil erupted when Kunstler announced that, instead of resting as originally agreed upon, the defense planned to have Mr. Abernathy testify.

The "Chicago Seven" are accused of conspiring to incite the riots that swept Chicago parks and streets during the 1968 Democratic National Convention.

When Hoffman insisted the

defense must wind up its presentation without Mr. Abernathy's testimony, Kunstler angrily balked. The judge formally entered the "rest" order on the defense's behalf.

Kunstler renewed his de-

mands repeatedly, bringing the SCLC leader into the courtroom after the first government rebuttal witness had taken the stand.

The judge remained adamant until the afternoon session, when Assistant U.S. Attorney Richard Schultz proposed that Mr. Abernathy be allowed to testify Tuesday after all.

Schultz said the "spectacle" of bringing Mr. Abernathy into the courtroom and suggesting the court was trying to hide the truth was "more prejudicial to the government case than any testimony Mr. Abernathy could have given."

"The damage has been done," Schultz said. "The only way this prejudice can be unwound is to bring Mr. Abernathy to the stand."

Hoffman agreed with Schultz that the incident might have created a prejudicial impression in the eyes of the jurors and said he would let Mr. Abernathy testify Tuesday. Kunstler told the judge that the SCLC leader had left Chicago for Mississippi but the defense would try to get him back in time.

"You think I'm looking for contemptuous conduct," Hoffman told Kunstler. "I'm not and I'm surprised when I find it here . . . I'm not eager to send anyone to jail especially lawyers . . . I'm not here to get any sadistic pleasure out of that."